

Senate Bill No. 1164

Passed the Senate August 27, 2004

Secretary of the Senate

Passed the Assembly August 27, 2004

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to add Sections 2602 and 2603 to the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

SB 1164, Romero. Media access to prisoners.

Existing law provides that a person sentenced to imprisonment in the state prison has the right to correspond confidentially with any member of the State Bar or holder of public office provided that the prison authorities may open and inspect incoming mail to search for contraband.

The bill would require the Department of Corrections, upon reasonable notice, to permit representatives of the news media to interview prisoners in person or randomly, as specified, and would prohibit the interview of a prisoner or parolee against his or her will. The bill would require the department to permit the news media to receive confidential correspondence from a prisoner, except as specified, and would forbid retaliation against an inmate for participating in a visit by a representative of the news media.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature in enacting this act to invalidate changes in Section 3261.5 of Title 15 of the California Code of Regulations for which a certificate of compliance was filed on April 14, 1997.

SEC. 2. Section 2602 is added to the Penal Code, to read:

2602. (a) The Legislature finds and declares all of the following:

(1) Free exchange of information from behind prison walls benefits the public and fosters a safe and efficient prison system.

(2) The Department of Corrections has historically permitted media access to state prisoners without endangering the safety of the prisons or the public.

(3) Members of the news media should be permitted to interview state prisoners unless that access would pose an immediate and direct threat to the security of the institution or the safety of members of the public.



(4) There is no legitimate reason for a blanket ban on media interviews with specified prisoners.

(b) The Department of Corrections, upon reasonable notice, shall permit representatives of the news media to interview prisoners in person, including prearranged interviews with specified prisoners. A personal interview of a particular prisoner may be denied if the department determines that the interview would pose an immediate and direct threat to the security of the institution or the physical safety of a member of the public. The department may establish reasonable time, place, and manner restrictions for prison interviews, including limitations on the number of interviews per prisoner in a specified time period, and requiring arrangements for pool interviews if requests to interview any one prisoner are excessive, in order to ensure the security of the institution, the physical safety of the public, and the efficient administration of news media interviews.

(1) The department shall permit random interviews of individuals encountered by a representative of the news media while covering a facility tour, activity, event, or program.

(2) During any interview with a prisoner, a representative of the news media may use materials necessary to conduct the interview, including, but not limited to, pens, pencils, papers, and audio and video recording devices.

(3) The department shall permit the news media to receive confidential correspondence from a prisoner unless to do so would pose an immediate and direct threat to the security of the institution or the safety of the public.

(4) No prisoner or parolee shall be interviewed against his or her will.

(5) No prisoner or parolee may have his or her visitation limited or revoked because of a visit or potential visit from a representative of the news media, nor may a prisoner or parolee be punished, reclassified, disciplined, transferred to another prison against his or her wishes, or otherwise retaliated against for participating in a visit by a representative of the news media.

SEC. 3. Section 2603 is added to the Penal Code, to read:

2603. For purposes of this article, “representative of the news media” means a journalist who works for, or is under contract to, a newspaper, magazine, wire service, book publisher, or radio or television program, or station or who, through press passes issued



by a governmental or police agency, or through similar convincing means, can demonstrate that he or she is a bona fide journalist engaged in the gathering of information for distribution to the public.



Approved _____, 2004

Governor

